



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 131**

**[EPA-HQ-OW-2017-0303; FRL- 9985-34-OW]**

**RIN 2040-AF71**

**Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to California: Lead, Chlorodibromomethane, and Dichlorobromomethane**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to amend the Federal regulations to withdraw certain freshwater acute and chronic aquatic life water quality criteria and certain human health (water and organisms) water quality criteria, applicable to certain waters of California because California adopted, and the Agency approved, criteria for these parameters that are protective of the uses for the waterbodies. In this action, the EPA is amending the Federal regulations to withdraw those certain criteria applicable to California as described in the December 11, 2017 proposed rule. The withdrawal will enable California to implement their EPA-approved water quality criteria.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action identified by Docket ID No. **EPA-HQ-OW-2017-0303**, at <https://www.regulations.gov>.

For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at two Docket Facilities. The Office of Water ("OW") Docket Center is open from 8:30 a.m. until 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566-2426 and the Docket address is OW Docket, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC, 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744. Publicly available docket materials are also available in hard copy at the U.S. EPA Region 9 address. Docket materials can be accessed from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information with respect to California, contact Diane E. Fleck, P.E. Esq., U.S. EPA Region 9, WTR-2, 75 Hawthorne St., San

Francisco, CA 94105 (telephone: (415) 972-3527 or e-mail: Fleck.Diane@epa.gov). For general and administrative concerns, contact Bryan “Ibrahim” Goodwin, U.S. EPA Headquarters, Office of Science and Technology, 1200 Pennsylvania, Avenue NW, Mail Code 4305T, Washington, DC 20460 (telephone: (202) 566-0762 or e-mail: Goodwin.Bryan@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Table of Contents**

#### I. General Information

##### A. Does This Action Apply to Me?

#### II. Background

##### A. What are the Applicable Federal Statutory and Regulatory Requirements?

##### B. What are the Applicable Federal Water Quality Criteria that the EPA is Withdrawing?

#### III. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review and Executive Order

##### 13563: Improving Regulation and Regulatory Review

##### B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

##### C. Paperwork Reduction Act (PRA)

##### D. Regulatory Flexibility Act (RFA)

##### E. Unfunded Mandates Reform Act (UMRA)

##### F. Executive Order 13132: Federalism

##### G. Executive Order 13175: Consultation and Coordination with Indian Tribal

## Governments

- H. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
- I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
- J. National Technology Transfer and Advancement Act
- K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- L. Congressional Review Act (CRA)

## **I. General Information**

### *A. Does This Action Apply to Me?*

No one is affected by the final action contained in this document. This final action would merely serve to withdraw certain Federal water quality criteria that have been applicable to California and are no longer needed in light of the EPA-approved state water quality criteria. If you have any questions regarding the applicability of this action to a particular entity, consult the person identified in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

## **II. Background**

### *A. What are the Applicable Federal Statutory and Regulatory Requirements?*

On May 18, 2000, the EPA promulgated a final rule known as the “California Toxics

Rule” (“CTR”) at 40 CFR 131.38. The CTR final rule established numeric water quality criteria for priority toxic pollutants for the State of California, because the State had not complied fully with Section 303(c)(2)(B) of the Clean Water Act (CWA) (65 FR 31682).

Consistent with the basic tenet of the CWA, the EPA developed its water quality standards program emphasizing State primacy. Although in the CTR the EPA promulgated toxic criteria for California, the Agency prefers that states maintain primacy, revise their own standards, and achieve full compliance (see 57 FR 60860, December 22, 1992). As described in the preamble to the final CTR (see 65 FR 31682 (May 18, 2000)), when California adopts, and the EPA approves, water quality criteria that meet the requirements of the CWA, the Agency will issue a rule amending the CTR to withdraw the Federal criteria applicable to California.

On December 11, 2017, the EPA proposed the withdrawal of certain freshwater aquatic life (acute and chronic) water quality criteria and certain federally promulgated human health (water and organisms) water quality criteria, applicable in California (see 82 FR 58156, December 11, 2017). The EPA received comments on the proposed rule and a listing of the comments, and the Agency’s responses, are contained in the document “Response to Comments for Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to California: Lead, Chlorodibromomethane and Dichlorobromomethane,” which can be accessed at OW docket number EPA-HQ-OW-2017-0303. Today, the EPA is taking final action on its proposal. The withdrawal of the federally promulgated criteria will enable California to implement its EPA-approved water quality criteria for these parameters.

*B. What are the Applicable Federal Water Quality Criteria that the EPA is Withdrawing?*

As discussed in the proposal (see 82 FR 58156, December 11, 2017), this final rule amends the Federal regulations in the CTR to withdraw the following criteria: freshwater acute and chronic aquatic life criteria for lead for the Los Angeles River and its tributaries; and human health (water & organisms) criteria for chlorodibromomethane and dichlorobromomethane for a segment of New Alamo Creek and a segment of Ulatis Creek. The EPA approved the State's criteria for lead and for chlorodibromomethane and dichlorobromomethane for these waters because the Agency determined that the State's criteria were scientifically sound and protective of the designated uses for these certain waters and met the requirements of the CWA and the Agency's implementing regulations at 40 CFR part 131. The State calls these criteria site-specific water quality objectives or site-specific objectives. More information on the EPA's actions which approved the California's site-specific objectives can be accessed at OW docket number EPA-HQ-OW-2017-0303.

This final rule will result in the withdrawal of the federally promulgated criteria for these certain waters under the CTR. However, the criteria for lead, chlorodibromomethane, and dichlorobromomethane for other waters in California that are currently part of the CTR remain in the Federal promulgation.

No changes to this final rule were made in response to the comments received on the proposed rule. The EPA received nine comments on the proposed rule through the public docket which are described in more detail in this section. Two anonymous comments and one

environmental group opposed the proposed rule to withdraw certain Federal criteria because California's criteria are higher numerically than the Federal criteria. Regarding the State's aquatic life criteria for lead, the EPA indicated that the State has provided analyses that show the criteria are protective of aquatic life, and that the U.S. Fish and Wildlife Service agreed that the criteria would not likely adversely affect any listed threatened or endangered species or their critical habitat. Regarding the State's human health criteria for chlorodibromomethane and dichlorobromomethane, the EPA indicated in its response that, as described in Agency's Record of Decision supporting the approval of the state's criteria, states and authorized tribes have the flexibility to adopt water quality criteria that result in a risk level higher than  $10^{-6}$ , up to the  $10^{-5}$  level. That flexibility is constrained, however, by the need for careful consideration of the associated exposure parameter assumptions, and whether the resulting criteria would expose sensitive subpopulations consuming fish at higher rates to no more than a  $10^{-4}$  cancer risk. The EPA determined that these certain state criteria assure that cancer risk to the most highly exposed population would not exceed a  $10^{-4}$  cancer risk level. In addition, the consumption of the water and fish/shellfish from the affected waterbody segments does not currently occur, nor is it expected to occur in the future. The Sanitation Districts of Los Angeles County supported the proposed rule. Four comments were outside the scope of the proposed rule; and, one comment's position was not clear. Two emails were sent directly to the EPA after the comment period closed for the proposed rule, inquiring about how water quality criteria under the CWA are determined compared to the Maximum Contaminant Levels (MCLs) under the Safe Drinking

Water Act (SDWA); the Agency's response, also included in the docket, stated that the CWA does not allow for consideration of costs and technological feasibility in the calculation of CWA water quality criteria, unlike SDWA MCLs. The EPA's "Response to Comments for Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to California: Lead, Chlorodibromomethane and Dichlorobromomethane" can be accessed at OW docket number EPA-HQ-OW-2017-0303.

### **III. Statutory and Executive Order Reviews**

#### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

#### *B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is a deregulatory action under Executive Order 13771. This rule is expected to provide meaningful burden reduction by withdrawal of certain federally promulgated criteria in certain waters of California.

#### *C. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA because it is administratively withdrawing Federal requirements that are no longer needed in California. It does not include any information collection, reporting, or recordkeeping requirements. The OMB has previously approved the information collection requirements



contained in the existing regulations at 40 CFR part 131 and has assigned OMB control number 2040-0286.

*D. Regulatory Flexibility Act (RFA)*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C.

1531-1538, and does not significantly or uniquely affect small governments. As this action withdraws certain federally promulgated criteria, the action imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule imposes no regulatory requirements or costs on any state or local governments. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the Agency and state and local governments, the Agency specifically solicited comment on this action from state and local officials.

*G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175. This rule imposes no regulatory requirements or costs on any tribal government. It does not have substantial direct effects on tribal governments, the relationship between the Federal Government and tribes, or on the distribution of power and responsibilities between the Federal Government and tribes. Thus, Executive Order 13175 does not apply to this action.

*H. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks*

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997)

because it is not economically significant as defined in Executive Order 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer Advancement Act*

This rulemaking does not involve technical standards.

*K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The EPA has previously determined, based on the most current science and the Agency's CWA

Section 304(a) recommended criteria, that California's adopted and the Agency-approved criteria are protective of human health.

*L. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

**List of Subjects in 40 CFR Part 131**

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements, Water pollution control.

Dated: October 4, 2018.

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Andrew R. Wheeler,

Acting Administrator.

For the reasons set out in the preamble title 40, chapter I, part 131 of the Code of Federal Regulation is amended as follows:

## PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

2. Amend § 131.38 by revising the table in paragraph (b)(1) to read as follows:

### § 131.38 Establishment of numeric criteria for priority toxic pollutants for the State of California.

\* \* \* \* \*

(b)(1) \*\*\*

A		B		C		D	
		Freshwater		Saltwater		Human Health (10 <sup>-6</sup> risk for carcinogens) For consumption of:	
# Compound	CAS Number	Criterion Maximum Conc. <sup>d</sup> (µg/L) B1	Criterion Continuous Conc. <sup>d</sup> (µg/L) B2	Criterion Maximum Conc. <sup>d</sup> (µg/L) C1	Criterion Continuous Conc. <sup>d</sup> (µg/L) C2	Water & Organisms (µg/L) D1	Organisms Only (µg/L) D2
1. Antimony	7440360					14 a,s	4300 a,t
2. Arsenic <sup>b</sup>	7440382	340 i,m,w	150 i,m,w	69 i,m	36 i,m		
3. Beryllium	7440417					n	n
4. Cadmium <sup>b</sup>	7440439	4.3 e,i,m,w,x	2.2 e,i,m,w	42 i,m	9.3 i,m	n	n
5a. Chromium (III)	16065831	550 e,i,m,o	180 e,i,m,o			n	n
5b. Chromium (VI) <sup>b</sup>	18540299	16 i,m,w	11 i,m,w	1100 i,m	50 i,m	n	n

6. Copper <sup>b</sup>	7440508	13 e,i,m,w,x	9.0 e,i,m,w	4.8 i,m	3.1 i,m	1300	
7. Lead <sup>b</sup>	7439921	65 e,i,m,z	2.5 e,i,m, z	210 i,m	8.1 i,m	n	n
8. Mercury <sup>b</sup>	7439976	[Reserved]	[Reserved]	[Reserved]	[Reserved]	0.050 a	0.051 a
9. Nickel <sup>b</sup>	7440020	470 e,i,m,w	52 e,i,m,w	74 i,m	8.2 i,m	610 a	4600 a
10. Selenium <sup>b</sup>	7782492	[Reserved] p	5.0 q	290 i,m	71 i,m	n	n
11. Silver <sup>b</sup>	7440224	3.4 e,i,m		1.9 i,m			
12. Thallium	7440280					1.7 a,s	6.3 a,t
13. Zinc <sup>b</sup>	7440666	120 e,i,m,w,x	120 e,i,m,w	90 i,m	81 i,m		
14. Cyanide <sup>b</sup>	57125	22 o	5.2 o	1 r	1 r	700 a	220,000 a,j
15. Asbestos	1332214					7,000,000 fibers/L k,s	
16. 2,3,7,8-TCDD (Dioxin)	1746016					0.0000000 13 c	0.000000014 c
17. Acrolein	107028					320 s	780 t
18. Acrylonitrile	107131					0.059 a,c,s	0.66 a,c,t
19. Benzene	71432					1.2 a,c	71 a,c
20. Bromoform	75252					4.3 a,c	360 a,c
21. Carbon Tetrachloride	56235					0.25 a,c,s	4.4 a,c,t
22. Chlorobenzene	108907					680 a,s	21,000 a,j,t
23. Chlorodibromomethane	124481					0.41 a,c,y	34 a,c
24. Chloroethane	75003						
25. 2-Chloroethylvinyl Ether	110758						
26. Chloroform	67663					[Reserved]	[Reserved]
27. Dichlorobromomethane	75274					0.56 a,c,y	46 a,c
28. 1,1-Dichloroethane	75343						

29. 1,2-Dichloroethane	107062					0.38 a,c,s	99 a,c,t
30. 1,1-Dichloroethylene	75354					0.057 a,c,s	3.2 a,c,t
31. 1,2-Dichloropropane	78875					0.52 a	39 a
32. 1,3-Dichloropropylene	542756					10 a,s	1,700 a,t
33. Ethylbenzene	100414					3,100 a,s	29,000 a,t
34. Methyl Bromide	74839					48 a	4,000 a
35. Methyl Chloride	74873					n	n
36. Methylene Chloride	75092					4.7 a,c	1,600 a,c
37. 1,1,2,2-Tetrachloroethane	79345					0.17 a,c,s	11 a,c,t
38. Tetrachloroethylene	127184					0.8 c,s	8.85 c,t
39. Toluene	108883					6,800 a	200,000 a
40. 1,2-Trans-Dichloroethylene	156605					700 a	140,000 a
41. 1,1,1-Trichloroethane	71556					n	n
42. 1,1,2-Trichloroethane	79005					0.60 a,c,s	42 a,c,t
43. Trichloroethylene	79016					2.7 c,s	81 c,t
44. Vinyl Chloride	75014					2 c,s	525 c,t
45. 2-Chlorophenol	95578					120 a	400 a
46. 2,4-Dichlorophenol	120832					93 a,s	790 a,t
47. 2,4-Dimethylphenol	105679					540 a	2,300 a
48. 2-Methyl-4,6-Dinitrophenol	534521					13.4 s	765 t
49. 2,4-Dinitrophenol	51285					70 a,s	14,000 a,t
50. 2-Nitrophenol	88755						
51. 4-Nitrophenol	100027						
52. 3-Methyl-4-Chlorophenol	59507						
53. Pentachlorophenol	87865	19 f,w	15 f,w	13	7.9	0.28 a,c	8.2 a,c,j



54. Phenol	108952					21,000 a	4,600,000 a,j,t
55. 2,4,6-Trichlorophenol	88062					2.1 a,c	6.5 a,c
56. Acenaphthene	83329					1,200 a	2,700 a
57. Acenaphthylene	208968						
58. Anthracene	120127					9,600 a	110,000 a
59. Benzidine	92875					0.00012 a,c,s	0.00054 a,c,t
60. Benzo(a)Anthracene	56553					0.0044 a,c	0.049 a,c
61. Benzo(a)Pyrene	50328					0.0044 a,c	0.049 a,c
62. Benzo(b)Fluoranthene	205992					0.0044 a,c	0.049 a,c
63. Benzo(ghi)Perylene	191242						
64. Benzo(k)Fluoranthene	207089					0.0044 a,c	0.049 a,c
65. Bis(2-Chloroethoxy)Methane	111911						
66. Bis(2-Chloroethyl)Ether	111444					0.031 a,c,s	1.4 a,c,t
67. Bis(2-Chloroisopropyl)Ether	108601					1,400 a	170,000 a,t
68. Bis(2-Ethylhexyl)Phthalate	117817					1.8 a,c,s	5.9 a,c,t
69. 4-Bromophenyl Phenyl Ether	101553						
70. Butylbenzyl Phthalate	85687					3,000 a	5,200 a
71. 2-Chloronaphthalene	91587					1,700 a	4,300 a
72. 4-Chlorophenyl Phenyl Ether	7005723						
73. Chrysene	218019					0.0044 a,c	0.049 a,c
74. Dibenzo(a,h)Anthracene	53703					0.0044 a,c	0.049 a,c
75. 1,2 Dichlorobenzene	95501					2,700 a	17,000 a
76. 1,3 Dichlorobenzene	541731					400	2,600
77. 1,4 Dichlorobenzene	106467					400	2,600

78. 3,3'-Dichlorobenzidine	91941					0.04 a,c,s	0.077 a,c,t
79. Diethyl Phthalate	84662					23,000 a,s	120,000 a,t
80. Dimethyl Phthalate	131113					313,000 s	2,900,000 t
81. Di-n-Butyl Phthalate	84742					2,700 a,s	12,000 a,t
82. 2,4-Dinitrotoluene	121142					0.11 c,s	9.1 c,t
83. 2,6-Dinitrotoluene	606202						
84. Di-n-Octyl Phthalate	117840						
85. 1,2-Diphenylhydrazine	122667					0.040 a,c,s	0.54 a,c,t
86. Fluoranthene	206440					300 a	370 a
87. Fluorene	86737					1,300 a	14,000 a
88. Hexachlorobenzene	118741					0.00075 a,c	0.00077 a,c
89. Hexachlorobutadiene	87683					0.44 a,c,s	50 a,c,t
90. Hexachlorocyclopentadiene	77474					240 a,s	17,000 a,j,t
91. Hexachloroethane	67721					1.9 a,c,s	8.9 a,c,t
92. Indeno(1,2,3-cd) Pyrene	193395					0.0044 a,c	0.049 a,c
93. Isophorone	78591					8.4 c,s	600 c,t
94. Naphthalene	91203						
95. Nitrobenzene	98953					17 a,s	1,900 a,j,t
96. N-Nitrosodimethylamine	62759					0.00069 a,c,s	8.1 a,c,t
97. N-Nitrosodi-n-Propylamine	621647					0.005 a	1.4 a
98. N-Nitrosodiphenylamine	86306					5.0 a,c,s	16 a,c,t
99. Phenanthrene	85018						
100. Pyrene	129000					960 a	11,000 a
101. 1,2,4-Trichlorobenzene	120821						
102. Aldrin	309002	3 g		1.3 g		0.00013 a,c	0.00014 a,c

103. alpha-BHC	319846					0.0039 a,c	0.013 a,c
104. beta-BHC	319857					0.014 a,c	0.046 a,c
105. gamma-BHC	58899	0.95 w		0.16 g		0.019 c	0.063 c
106. delta-BHC	319868						
107. Chlordane	57749	2.4 g	0.0043 g	0.09 g	0.004 g	0.00057 a,c	0.00059 a,c
108. 4,4'-DDT	50293	1.1 g	0.001 g	0.13 g	0.001 g	0.00059 a,c	0.00059 a,c
109. 4,4'-DDE	72559					0.00059 a,c	0.00059 a,c
110. 4,4'-DDD	72548					0.00083 a,c	0.00084 a,c
111. Dieldrin	60571	0.24 w	0.056 w	0.71 g	0.0019 g	0.00014 a,c	0.00014 a,c
112. alpha-Endosulfan	959988	0.22 g	0.056 g	0.034 g	0.0087 g	110 a	240 a
113. beta-Endosulfan	33213659	0.22 g	0.056 g	0.034 g	0.0087 g	110 a	240 a
114. Endosulfan Sulfate	1031078					110 a	240 a
115. Endrin	72208	0.086 w	0.036 w	0.037 g	0.0023 g	0.76 a	0.81 a,j
116. Endrin Aldehyde	7421934					0.76 a	0.81 a,j
117. Heptachlor	76448	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00021 a,c	0.00021 a,c
118. Heptachlor Epoxide	1024573	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00010 a,c	0.00011 a,c
119-125. Polychlorinated biphenyls (PCBs)			0.014 u		0.03 u	0.00017 c,v	0.00017 c,v
126. Toxaphene	8001352	0.73	0.0002	0.21	0.0002	0.00073 a,c	0.00075 a,c
Total Number of Criteria <sup>h</sup>		22	21	22	20	92	90

### FOOTNOTES TO TABLE IN PARAGRAPH (b)(1)

a. Criteria revised to reflect the Agency q1\* or RfD, as contained in the Integrated Risk Information System (IRIS) as of October 1, 1996. The fish tissue bioconcentration factor (BCF) from the 1980 documents was retained in each case.

b. Criteria apply to California waters except for those waters subject to objectives in Tables III-2A and III-2B of the San Francisco Regional Water Quality Control Board's (SFRWQCB) 1986 Basin Plan that were adopted by the SFRWQCB and the State Water Resources Control Board, approved by the EPA, and which continue to apply. For copper and nickel, criteria apply to California waters except for waters south of Dumbarton Bridge in San Francisco Bay that are subject to the objectives in the SFRWQCB's Basin Plan as amended by SFRWQCB Resolution R2-2002-0061, dated May 22, 2002, and approved by the State Water Resources Control Board. The EPA approved the aquatic life site-specific objectives on January 21, 2003. The copper and nickel aquatic life site-specific objectives contained in the amended Basin Plan apply instead.

c. Criteria are based on carcinogenicity of 10 (-6) risk.

d. Criteria Maximum Concentration (CMC) equals the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time without deleterious effects. Criteria Continuous Concentration (CCC) equals the highest concentration of a pollutant to which aquatic life can be exposed for an extended period of time (4 days) without deleterious effects. ug/L equals micrograms per liter.

e. Freshwater aquatic life criteria for metals are expressed as a function of total hardness (mg/L) in the water body. The equations are provided in matrix at paragraph (b)(2) of this section. Values displayed above in the matrix correspond to a total hardness of 100 mg/l.

f. Freshwater aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows: Values displayed above in the matrix correspond to a pH of 7.8.  $CMC = \exp(1.005(pH) - 4.869)$ .  $CCC = \exp(1.005(pH) - 5.134)$ .

g. This criterion is based on Clean Water Act (CWA) 304(a) aquatic life criterion issued in 1980, and was issued in one of the following documents: Aldrin/Dieldrin (EPA 440/5-80-019), Chlordane (EPA 440/5-80-027), DDT (EPA 440/5-80-038), Endosulfan (EPA 440/5-80-046), Endrin (EPA 440/5-80-047), Heptachlor (440/5-80-052), Hexachlorocyclohexane (EPA 440/5-80-054), Silver (EPA 440/5-80-071). The Minimum Data Requirements and derivation procedures were different in the 1980 Guidelines than in the 1985 Guidelines. For example, a “CMC” derived using the 1980 Guidelines was derived to be used as an instantaneous maximum. If assessment is to be done using an averaging period, the values given should be divided by 2 to obtain a value that is more comparable to a CMC derived using the 1985 Guidelines.

h. These totals simply sum the criteria in each column. For aquatic life, there are 23 priority toxic pollutants with some type of freshwater or saltwater, acute or chronic criteria. For human health, there are 92 priority toxic pollutants with either “water + organism” or “organism only” criteria. Note that these totals count chromium as one pollutant even though the EPA has developed criteria based on two

valence states. In the matrix, the EPA has assigned numbers 5a and 5b to the criteria for chromium to reflect the fact that the list of 126 priority pollutants includes only a single listing for chromium.

i. Criteria for these metals are expressed as a function of the water-effect ratio, WER, as defined in paragraph (c) of this section.  $CMC = \text{column B1 or C1 value} \times WER$ ;  $CCC = \text{column B2 or C2 value} \times WER$ .

j. No criterion for protection of human health from consumption of aquatic organisms (excluding water) was presented in the 1980 criteria document or in the 1986 Quality Criteria for Water. Nevertheless, sufficient information was presented in the 1980 document to allow a calculation of a criterion, even though the results of such a calculation were not shown in the document.

k. The CWA 304(a) criterion for asbestos is the MCL.

l. [Reserved]

m. These freshwater and saltwater criteria for metals are expressed in terms of the dissolved fraction of the metal in the water column. Criterion values were calculated by using the EPA's Clean Water Act 304(a) guidance values (described in the total recoverable fraction) and then applying the conversion factors in §131.36(b)(1) and (2).

n. The EPA is not promulgating human health criteria for these contaminants. However, permit authorities should address these contaminants in NPDES permit actions using the State's existing narrative criteria for toxics.

o. These criteria were promulgated for specific waters in California in the National Toxics Rule (“NTR”), at §131.36. The specific waters to which the NTR criteria apply include: Waters of the State defined as bays or estuaries and waters of the State defined as inland, i.e., all surface waters of the State not ocean waters. These waters specifically include the San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta. This section does not apply instead of the NTR for this criterion.

p. A criterion of 20 ug/l was promulgated for specific waters in California in the NTR and was promulgated in the total recoverable form. The specific waters to which the NTR criterion applies include: Waters of the San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta; and waters of Salt Slough, Mud Slough (north) and the San Joaquin River, Sack Dam to the mouth of the Merced River. This section does not apply instead of the NTR for this criterion. The State of California adopted and the EPA approved a site specific criterion for the San Joaquin River, mouth of Merced to Vernalis; therefore, this section does not apply to these waters.

q. This criterion is expressed in the total recoverable form. This criterion was promulgated for specific waters in California in the NTR and was promulgated in the total recoverable form. The specific waters to which the NTR criterion applies include: Waters of the San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta; and waters of Salt Slough, Mud Slough (north) and the San Joaquin River, Sack Dam to Vernalis. This criterion does not apply instead of the NTR for these waters. This criterion applies to additional waters of the United States in the State of California pursuant to paragraph (c) of this section. The State of California adopted and the EPA approved a site-specific

criterion for the Grassland Water District, San Luis National Wildlife Refuge, and the Los Banos State Wildlife Refuge; therefore, this criterion does not apply to these waters.

r. These criteria were promulgated for specific waters in California in the NTR. The specific waters to which the NTR criteria apply include: Waters of the State defined as bays or estuaries including the Sacramento-San Joaquin Delta within California Regional Water Board 5, but excluding the San Francisco Bay. This section does not apply instead of the NTR for these criteria.

s. These criteria were promulgated for specific waters in California in the NTR. The specific waters to which the NTR criteria apply include: Waters of the Sacramento-San Joaquin Delta and waters of the State defined as inland (i.e., all surface waters of the State not bays or estuaries or ocean) that include a MUN use designation. This section does not apply instead of the NTR for these criteria.

t. These criteria were promulgated for specific waters in California in the NTR. The specific waters to which the NTR criteria apply include: Waters of the State defined as bays and estuaries including San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta; and waters of the State defined as inland (i.e., all surface waters of the State not bays or estuaries or ocean) without a MUN use designation. This section does not apply instead of the NTR for these criteria.

u. PCBs are a class of chemicals which include aroclors 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825, and 12674112, respectively. The aquatic life criteria apply to the sum of this set of seven aroclors.



v. This criterion applies to total PCBs, e.g., the sum of all congener or isomer or homolog or aroclor analyses.

w. This criterion has been recalculated pursuant to the 1995 Updates: Water Quality Criteria Documents for the Protection of Aquatic Life in Ambient Water, Office of Water, EPA-820-B-96-001, September 1996. See also Great Lakes Water Quality Initiative Criteria Documents for the Protection of Aquatic Life in Ambient Water, Office of Water, EPA-80-B-95-004, March 1995.

x. The State of California has adopted and the EPA has approved site specific criteria for the Sacramento River (and tributaries) above Hamilton City; therefore, these criteria do not apply to these waters.

y. The State of California adopted and the EPA approved a site-specific criterion for New Alamo Creek from Old Alamo Creek to Ulati Creek and for Ulati Creek from Alamo Creek to Cache Slough; therefore, this criterion does not apply to these waters.

z. The State of California adopted and the EPA approved a site-specific criterion for the Los Angeles River and its tributaries; therefore, this criterion does not apply to these waters.

#### **GENERAL NOTES TO TABLE IN PARAGRAPH (b)(1)**

1. The table in this paragraph (b)(1) lists all of the EPA's priority toxic pollutants whether or not criteria guidance are available. Blank spaces indicate the absence of national section 304(a) criteria guidance. Because of variations in chemical nomenclature systems, this listing of toxic pollutants does not duplicate the listing in appendix A to 40 CFR part 423-126 Priority Pollutants. The EPA has added the

Chemical Abstracts Service (CAS) registry numbers, which provide a unique identification for each chemical.

2. The following chemicals have organoleptic-based criteria recommendations that are not included on this chart: zinc, 3-methyl-4-chlorophenol.

3. Freshwater and saltwater aquatic life criteria apply as specified in paragraph (c)(3) of this section.

\* \* \* \* \*

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